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January 13, 2025

Re: *Berenson v. Biden*, No. 23-CV-3048 (JGLC) (S.D.N.Y.)

Honorable Jessica G.L. Clarke  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Dear Judge Clarke:

We represent defendants Dr. Albert Bourla and Dr. Scott Gottlieb in the referenced action, and write to apprise the Court of supplemental authority relevant to their pending motion to dismiss.

In that motion, Dr. Bourla and Dr. Gottlieb argue that plaintiff Alex Berenson fails to plead the requisite elements for his Section 1985(3) claim, including because his asserted class of “Americans who had chosen not to receive a COVID-19 vaccine” is not cognizable. See Dkt. No. 95 at 14–16.

On January 7, 2025, the United States District Court for the Northern District of California (Hon. Rita F. Lin) dismissed with prejudice a Section 1985(3) claim based on COVID-19 vaccination status, holding that “no precedent extends § 1985 protection to unvaccinated status,” and that there was no “legally viable basis” for such a “novel expansion of § 1985(3).” *Martin v. Masters, Mates, & Pilots*, 2025 WL 40285, at \*2–3 (N.D. Cal. Jan. 7, 2025).

A copy of the decision is attached to this letter as Exhibit A.

We thank the Court for its consideration.

Respectfully submitted,

/s/ James P. Rouhandeh

James P. Rouhandeh

Cc: All counsel via ECF

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